

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 472** SLS 12RS 612

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: April 12, 2012 9:01 AM	Author: MURRAY
Dept./Agy.: Workforce Commission	Analyst: Deborah Vivien
Subject: Provides recourse for misclassification of employees	

UNEMPLOYMENT COMP OR INCREASE SD RV See Note Page 1 of 1
Prohibits certain employees of staffing services from being classified as independent contractors. (2/3-CA 7s2.1(A)) (8/1/12)

Current law requires employers to pay unemployment insurance on all employees that are eligible. Independent contractors must pay their own insurance. Staffing services are defined as employers and are separate from professional employer organizations.

Proposed law allows the Workforce Commission to impose a penalty up to \$10,000 per employee (\$25,000 per audit) for unknowingly misclassifying employees and failing to pay contributions or up to \$25,000 per employee (\$50,000 per audit) for knowingly misclassifying employees and failing to pay unemployment or worker's compensation insurance. A pattern of violation may be punishable by 30-90 days in jail per offense (unpaid employee). Appeals are judicial with a 10 day filing requirement. If guilty after appeal, the employer shall also be prohibited from contracting with any state or local governments. Employers must post notice concerning responsibilities and rights of independent contractors.

EXPENDITURES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2012-13	2013-14	2014-15	2015-16	2016-17	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure.

REVENUE EXPLANATION

This bill provides recourse to the Workforce Commission (LWC) to compel employers to properly classify employers and pay requisite employment contributions for unemployment and worker's compensation insurance. Historically, the LWC has conducted audits on 1% of its registered employer base or about 1,000 audits annually with about one-third of them resulting in worker misclassification. It is anticipated that, with the passage of this bill and the penalties imposed, voluntary compliance will reduce this figure to 15% of audits or 150 audits per year resulting in misclassifications. Though it is possible that some employers may be found to intentionally misclassify employees resulting in a maximum fine of \$50,000 per audit, most determinations are expected to be unintentional with a maximum fine of \$25,000 per audit. As an estimate of the impact to the state, if 150 audits resulted in the maximum fine for unintentional misclassification of \$25,000 per audit, the state could increase statutory dedication (Penalty and Interest Account) revenue by about \$3.75 million. The actual increase could deviate significantly from this amount as the underlying assumptions can be highly variable. This bill deals only with the enforcement mechanism for collecting worker's compensation or unemployment insurance, not the calculation of the employer rates.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	Gregory V. Albrecht Chief Economist